

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

ANTHONY PIERRE,

Plaintiff,

v.

Civil Action No.

**DELAWARE COUNTY D/B/A GEORGE
W. HILL CORRECTIONAL FACILITY;
LAURA K. WILLIAMS; DELE FALY;
LISA MASTRODDI; K. MOORE; G.
BLEE; MIKE MOORE; SERGEANT
HAMRE; SERGEANT SICOLLE;
SERGEANT RICHBERT; JESSAMINE
HEALTHCARE, INC.; JESSAMINE
HEALTHCARE, INC. D/B/A CORRECT
CARE SOLUTIONS, LLC/ WELLPATH,
LLC; DR. NANCY, PHYSICIAN FOR
JESSAMINE HEALTHCARE, INC. D/B/A
CORRECT CARE SOLUTIONS,
LLC/WELLPATH, LLC; NURSE HAITAN,
NURSE FOR JESSAMINE HEALTHCARE,
INC. D/B/A CORRECT CARE
SOLUTIONS, LLC/WELLPATH, LLC,**

Defendants.

NOTICE OF REMOVAL

Pursuant to 28 U.S.C. §§ 1331, 1441 and 1446, defendants, Delaware County d/b/a George W. Hill Correctional Facility, Laura K. Williams, Warden, Dele Faly, Deputy Warden of Programs and Support and Lisa Mastroddi, Deputy Warden of Operations and Administration (hereinafter “the Delaware County Defendants”), by and through their undersigned counsel, timely remove this action from the Court of Common Pleas of Delaware County, Pennsylvania, to the United States District Court for the Eastern District of Pennsylvania, on the following grounds:

1. On June 16, 2022, plaintiff Anthony Pierre filed a Complaint against the

Delaware County Defendants, K. Moore, G. Blee, Mike Moore, Sergeant Hamre, Sergeant Sicolle, Sergeant Richbert; Jessamine Healthcare, Inc., Jessamine Healthcare, Inc. d/b/a Correct Care Solutions, LLC/ Wellpath, LLC, Dr. Nancy, Physician For Jessamine Healthcare, Inc. d/b/a Correct Care Solutions, LLC/Wellpath, LLC, Nurse Haitan, Nurse For Jessamine Healthcare, Inc. d/b/a Correct Care Solutions, LLC/Wellpath, LLC, in the Court of Common Pleas of Delaware County, Pennsylvania, docketed at *Pierre v. Delaware County d/b/a George W. Correctional Facility, et al.*, No. CV-2022-004140. A true and correct copy of plaintiff's complaint is attached as Exhibit "A."

2. The Delaware County Defendants were served on July 19, 2022, and did not receive a copy of plaintiff's complaint, through service or otherwise, at any time prior to July 19, 2022.

3. This Notice of Removal is therefore timely filed within thirty (30) days of the receipt of the Complaint by the Delaware County Defendants as required by 28 U.S.C. § 1446(b).

4. 28 U.S.C. § 1331 states that "[t]he district courts shall have original jurisdiction of all civil actions arising under the Constitution, laws, or treaties of the United States."

5. Counts I and II of Plaintiff's Complaint alleges a cause of action under 42 U.S.C. § 1983. The United States District Court for the Eastern District of Pennsylvania has original jurisdiction over these federal claims pursuant to 28 U.S.C. § 1331. The Court also has supplemental jurisdiction over the state law claims pursuant to 28 U.S.C. § 1367.

6. All alleged events set forth in the Complaint took place in Delaware County, Pennsylvania. Therefore, venue is proper in this Court pursuant to 28 U.S.C. § 1441(a).

7. Geo Group, Inc. was responsible for the operation of the George W. Hill

Correctional Facility until the County assumed full operational control on April 6, 2022.

8. Geo Group, Inc. employed Sergeant Hamre on 3/22/22. Hamre's employment at the George W. Hill Correctional Facility ended on 4/26/2022. The Affidavit of Service indicates that Defendant Hamre was served on July 19, 2022 by leaving the Complaint with the Warden. The method of service was defective because Hamre's principal place of business was not the George W. Hill Correctional Facility. (*See Affidavits of Service*, attached hereto as Exhibit "B").

9. Geo Group, Inc. employed G. Blee, Correctional Officer on 3/22/22. Based upon information and belief, he was terminated by Geo Group, Inc. The Affidavit of Service indicates that G. Blee, was served on July 19, 2022 by leaving the Complaint with the Warden. The method of service was defective because Defendant Blee's principal place of business was not the George W. Hill Correctional Facility as he was terminated before the County assumed control and operation of the Facility on April 6, 2022. (*See Affidavits of Service*, attached hereto as Exhibit "B").

10. Geo Group, Inc. employed K. Moore, Correctional Officer on 3/22/22. He is now an employee of the George W. Hill Correctional Facility. The Affidavit of Service indicates that K. Moore, was served on July 19, 2022 by leaving the Complaint with the Warden. (*See Affidavits of Service*, attached hereto as Exhibit "B").

11. Geo Group, Inc. employed Mike Moore on 3/22/22. He is now an employee of the George W. Hill Correctional Facility. The Affidavit of Service indicates that Mike Moore was served on July 19, 2022 by leaving the Complaint with the Warden. (*See Affidavits of Service*, attached hereto as Exhibit "B").

12. Named Defendants Sicolle and Richbert are not employees of the County. And to the extent that these individuals were misidentified by plaintiff, they would have been employees

of GEO Group, Inc., at the time of the incident set forth in the Complaint. The Sheriff's Affidavit claims that he/she served Sicolle and Richbert, two unknown individuals, by leaving the Complaint with the Warden. (*See Affidavits of Service*, attached hereto as Exhibit "B"). Service upon Defendants Sicolle and Richbert was improper and defective.

13. In order for service of process upon an authorized agent to be effective, the party asserting the validity of process needs to demonstrate that the agent had either implied or express authority to accept process. *Scalla v. KWS, Inc.*, No. CV 18-1333, 2018 WL 6271646, at *4 (E.D. Pa. Nov. 30, 2018)(citing *United States ex rel. Thomas v. Siemens AG*, 708 F. Supp. 2d 505, 519 (E.D. Pa. 2010) and *Grand Entm't Group v. Star Media Sales*, 988 F.2d 476, 478 (3d Cir. 1993)).

14. The Warden did not have express or implied authority to accept service on behalf of Defendants Blee, Hamre, Sicolle or Richbert. There is also an issue of law as to whether the Warden had express or implied authority to accept service on behalf of the former GEO Group employees who became County employees, post-incident.

15. No other named party has been properly served at the time of this removal.

16. In accordance with 28 U.S.C. § 1446(a), copies of all process, pleadings, and orders received by the Delaware County Defendants in the action, excluding the complaint, which is attached as Exhibit "A", are attached as Exhibit "C."

17. True and correct copies of this Notice of Removal with accompanying exhibits and a separate Notice to State Court of Filing of Notice of Removal, a copy of which is attached hereto as Exhibit "D," will be served upon counsel for plaintiff and filed with the Prothonotary of the Court of Common Pleas of Delaware County, Pennsylvania, in accordance with the provisions of 28 U.S.C. § 1446(d).

18. In filing or consenting to this Notice of Removal, defendants do not waive any available defenses in this action.

WHEREFORE, defendants, Delaware County d/b/a George W. Hill Correctional Facility, Laura K. Williams, Warden, Dele Faly, Deputy Warden of Programs and Support and Lisa Mastroddi, Deputy Warden of Operations and Administration, request this action be removed from the Court of Common Pleas of Delaware County, Pennsylvania to the United States District Court for the Eastern District of Pennsylvania.

/s/Jeffrey M. Scott

Jeffrey M. Scott

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Delaware County d/b/a

George W. Hill Correctional Facility, Laura K. Williams, Dele Faly and Lisa Mastroddi

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INC. D/B/A CORRECT CARE
SOLUTIONS, LLC/WELLPATH, LLC,**

Defendants.

CERTIFICATE OF SERVICE

The undersigned counsel for Defendants Delaware County d/b/a George W. Hill Correctional Facility, Laura K. Williams, Dele Faly and Lisa Mastroddi certifies that, on July 29, 2022, the foregoing Notice of Removal and supporting documents were filed electronically with the Court using the Electronic Filing System, and service of such filing was made by First Class Mail, and addressed as follows:

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